

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GEOVECTOR CORPORATION,
Plaintiff,
v.
SAMSUNG ELECTRONICS CO. LTD., et
al.,
Defendants.

Case No. [16-cv-02463-WHO](#)

**ORDER GRANTING MOTION TO
STRIKE, STAYING DISCOVERY, AND
GRANTING LEAVE TO AMEND**

Re: Dkt. No. 45

INTRODUCTION

Defendants Samsung International, Inc., Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Research America, Inc., (collectively “Samsung”), have filed a Motion to Strike Infringement Contentions, Compel Supplementation of Patent Local Rule 3-2 Document Production, and Stay Discovery, arguing that plaintiff GeoVector Corporation (“GeoVector”)’s infringement contentions do not comply with the Patent Local Rules in various ways and therefore do not put Samsung sufficiently on notice of GeoVector’s infringement theories.¹ Motion (“Mot.”) (Dkt. No. 45) at 15. GeoVector responds that Samsung has been given reasonable notice of its infringement contentions because it has outlined its general infringement theories in its complaints and in discussions with counsel and that Samsung has demonstrated an understanding of GeoVector’s theories. Opposition (“Oppo.”) at 9-12 (Dkt. No. 51). Argument is unnecessary and I VACATE the hearing set on January 11, 2017. After carefully considering the briefs and filings in this case, I GRANT Samsung’s motion to strike and GRANT GeoVector leave to amend its direct and indirect infringement contentions as outlined below.

¹ In its motion Samsung also argued that GeoVector had failed to produce all documents required under Patent L.R. 3-2. Mot. at 2. However, because GeoVector represented in its opposition that it does not have any additional documents to produce, Samsung is no longer seeking to compel additional production. Reply at 9.

BACKGROUND

In this patent case GeoVector accuses Samsung of direct and indirect infringement of GeoVector's patents related to augmented reality technology. Second Amended Complaint ("SAC") ¶ 2. On November 2, 2016, GeoVector served its infringement contentions on Samsung. Mot. at 2. The infringement contentions assert infringement of Claims 1, 20, 22, and 23 of U.S. Patent No. 6,037,936 ("the '936 Patent"); Claims 1-7 of U.S. Patent No. 7,301,536 ("the '536 Patent"); and Claims 1-18 of U.S. Patent No. 7,916,138 ("the '138 Patent"). *Id.* They accuse a number of Samsung products by naming particular products by name or model number, but also accuse various groups and categories of Samsung products including (1) all Samsung "smart phones" with a screen, camera processor, compass, and accelerator; (2) the Samsung Galaxy, Galaxy S, Galaxy Note, and Galaxy Tab "product lines"; (3) all Samsung "tablets" shipped between 2010 and 2013; and (4) all Samsung "phablets." *Id.* The contentions also accuse all "augmented reality (AR) applications" but list only one third-party application, named Layar, in the supporting claim charts. *Id.* at 3. The charts make reference to other AR applications, listed in Exhibit B, but do not offer any explanation of how those AR applications work or how they infringe the specific claim limitations. GeoVector includes a single chart for each patent in suit, each one listing dozens or hundreds of accused products. *Id.* For many of the claim limitations GeoVector does not identify a specific component within a particular Samsung product that infringes but instead uses general language to indicate that all accused products infringe the limitation at issue. *Id.*

On November 15, 2016, Samsung served a letter on GeoVector indicating Samsung's position that the infringement contentions were deficient in an attempt to resolve the issues without court intervention. Mot. at 6. Over the next few weeks, the parties made various attempts to discuss the infringement contentions but were unable to resolve any issues.

Samsung filed this motion to strike on December 7, 2016. It contends that GeoVector's infringement contentions fail to comply with the Patent Local Rules for the following reasons: (1) GeoVector's contentions do not provide sufficient specificity in identifying the accused products, as required by L. R. 3-1(b); (2) GeoVector's contentions improperly combine hundreds of accused

1 products into three claim charts, in violation of L. R. 3-1(c); (3) GeoVector does not identify
2 where each asserted claim limitation is found within each accused instrumentality as required by
3 L. R. 3-1(c); (4) GeoVector's indirect infringement allegations contain only boilerplate and do not
4 meet the standard required by L. R. 3-1(d); and (5) GeoVector asserts the doctrine of equivalents
5 as an alternative theory without explanation in violation of L. R. 3-1(e). Mot. at 9-13. Samsung
6 contends that, as a result of these deficiencies, GeoVector's infringement contentions fail to put
7 Samsung on notice of GeoVector's theories of the case and the precise substance of its allegations.
8 Samsung therefore seeks an order striking GeoVector's Infringement Contentions and staying all
9 discovery directed to Samsung and the accused products, including the obligation to serve
10 invalidity contentions, until after GeoVector has served new infringement contentions that comply
11 with the local rules. Mot. at 16.

12 In opposition, GeoVector argues that its infringement contentions comply with the local
13 rules because Samsung has been put on notice of what GeoVector's claims are. Oppo. at 15. It
14 notes that Samsung has demonstrated an understanding of GeoVector's claims in hearings and
15 meet and confers, asserts that Samsung is "well-aware of which of its devices contain GeoVector's
16 innovations," and argues that it will supplement its doctrine of equivalents contentions after
17 Samsung provides additional information about its devices through discovery. *Id.* at 16-17.

18 In reply Samsung asserts that GeoVector fundamentally misunderstands the standard
19 required by the local rules. Reply at 1 (Dkt. No. 52). It notes that the local rules require a plaintiff
20 to compare a product to each asserted claim and apply each and every element and limitation of
21 the claim to that product. *Id.* Further, while a plaintiff is not required to reverse engineer a
22 product, it must provide a level of detail that would be obtained through reverse engineering or its
23 equivalent. *Id.* Samsung asserts that GeoVector's infringement contentions, which combine
24 hundreds of products together in three charts and mix and match different products to various
25 claims and limitations, does not comply with the local rules. *Id.*

26 **LEGAL STANDARD**

27 Patent Local Rule 3-1 requires:

28 [A] party claiming patent infringement shall serve on all parties a 'Disclosure of

1 Asserted Claims and Infringement Contentions[]’ . . . [which] shall contain the
2 following information:

3 (a) Each claim of each patent in suit that is allegedly infringed by each opposing
4 party, including for each claim the applicable statutory subsections of 35 U.S.C. §
5 271 asserted;

6 (b) Separately for each asserted claim, each accused apparatus, product, device,
7 process, method, act, or other instrumentality (“Accused Instrumentality”) of each
8 opposing party of which the party is aware. This identification shall be as specific
9 as possible. Each product, device, and apparatus shall be identified by name or
10 model number, if known. Each method or process shall be identified by name, if
11 known, or by any product, device, or apparatus which, when used, allegedly results
12 in the practice of the claimed method or process;

13 (c) A chart identifying specifically where each limitation of each asserted claim is
14 found within each Accused Instrumentality, including for each limitation that such
15 party contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s),
16 act(s), or material(s) in the Accused Instrumentality that performs the claimed
17 function.

18 (d) For each claim which is alleged to have been indirectly infringed, an
19 identification of any direct infringement and a description of the acts of the alleged
20 indirect infringer that contribute to or are inducing that direct infringement. Insofar
21 as alleged direct infringement is based on joint acts of multiple parties, the role of
22 each such party in the direct infringement must be described.

23 (e) Whether each limitation of each asserted claim is alleged to be literally present
24 or present under the doctrine of equivalents in the Accused Instrumentality.

25 “The overriding principle of the Patent Local Rules is that they are designed [to] make the
26 parties more efficient, to streamline the litigation process, and to articulate with specificity the
27 claims and theory of a plaintiff’s infringement claims.” *Bender v. Maxim Integrated Prods.*, No.
28 09-c-01152-SI, 2010 WL 1135762, at *2 (N.D. Cal. Mar. 22, 2010) (alteration in original)
(internal citation omitted). Patent Local Rule 3-1 is intended to require the plaintiff “to crystallize
its theories of the case early in the litigation and to adhere to those theories once disclosed.”
Bender v. Advanced Micro Devices, Inc., No. 09-c-1149-EMC, 2010 WL 363341, at *1 (N.D. Cal.
Feb. 1, 2010). It “takes the place of a series of interrogatories that defendants would likely have
propounded had the patent local rules not provided for streamlined discovery.” *Network Caching
Tech., LLC v. Novell, Inc.*, No. 01-c-2079-VRW, 2002 WL 32126128, at *4 (N.D. Cal. Aug. 13,

1 2002).

2 “[A]ll courts agree that the degree of specificity under Local Rule 3-1 must be sufficient to
3 provide reasonable notice to the defendant why the plaintiff believes it has a ‘reasonable chance of
4 proving infringement.’” *Shared Memory Graphics LLC v. Apple, Inc.*, 812 F. Supp. 2d 1022,
5 1025 (N.D. Cal. 2010) (quoting *View Eng’g, Inc. v. Robotic Vision Sys., Inc.*, 208 F.3d 981, 986
6 (Fed. Cir. 2000)). The local rules do not “require the disclosure of specific evidence nor do they
7 require a plaintiff to prove its infringement case . . . a patentee must nevertheless disclose what in
8 each accused instrumentality it contends practices each and every limitation of each asserted claim
9 to the extent appropriate information is reasonably available to it.” *DCG Sys. v. Checkpoint
Techs., LLC*, No. 11-c-03792-PSG, 20112 WL 1309161, at *2 (N.D. Cal. Apr. 16, 2012).

11 DISCUSSION

12 After reviewing the infringement contentions and the parties’ briefs, I conclude that
13 GeoVector’s infringement contentions do not comply with a number of the Local Rules’
14 requirements.

15 I. MOTION TO STRIKE

16 A. GeoVector’s Contentions Fail to Provide Sufficient Specificity as Required by Patent 17 Local Rule 3-1(b)

18 Patent Local Rule 3-1(b) requires a party asserting infringement to identify “[s]eparately
19 for each asserted claim, each accused apparatus, product, device, process, method, act, or other
20 instrumentality . . . of which the party is aware. This identification shall be as specific as possible.
21 Each product, device, and apparatus shall be identified by name or model number, if known. Each
22 method or process shall be identified by name, if known, or by any product, device, or apparatus
23 which, when used, allegedly results in the practice of the claimed method or process.” Patent L.
24 R. 3-1(b).

25 Here, although GeoVector identifies some accused products by name or model number, it
26 also states that these are “examples” of infringing products and also accuses (1) Samsung “smart
27 phones” with a screen, camera, processor, compass, and accelerometer; (2) all “tablets” shipped
28 between 2010 and 2013; the Samsung Galaxy, Galaxy S, Galaxy Note, and Galaxy Tab “product

1 lines”; (3) all “phablets”; and (4) all Augmented Reality applications that are like those expressly
2 listed in Exhibit B to the infringement contentions.

3 Rule 3-1(b) does not permit parties to identify accused products by using categorical or
4 functional identifications, or limited, representative examples. *See e.g., Vigilos LLC v. Sling*
5 *Media Inc.*, No. 11-c-04117-SBA (EDL), 2012 WL 9973147, at *4 (N.D. Cal. July 12, 2012)
6 (“Plaintiff’s general list of products by category or functionality is insufficient, and Plaintiff must
7 provide a list of accused products.”); *Oracle Am., Inc. v. Google Inc.*, No. 10-c-03561-WHA, 2011
8 WL 4479305, at *3 (N.D. Cal. Sept. 26, 2011) (The Patent Local Rules [do] not tolerate broad
9 categorical identification like ‘mobile devices running Android,’ nor [do] they permit the use of
10 mere representative examples. Representative examples may be a useful tool for proving an
11 infringement case at trial, but a full list of accused products must be disclosed as part of a party’s
12 infringement contentions.”).

13 GeoVector’s attempt to identify products by broad category or functionality does not meet
14 the specificity requirements of Local Rule 3-1(b).

15 **B. GeoVector Has Failed to Adequately Chart its Contentions Against the Accused
16 Products**

17 Patent Local Rule 3-1(c) requires an accusing party to provide “[a] chart identifying
18 specifically where each limitation of each asserted claim is found within each Accused
19 Instrumentality.” Patent L. R. 3-1(c). Under this rule, the accusing party “must compare an
20 accused product to its patents on a claim by claim, element by element basis for at least one of
21 each defendant’s products.” *Finjan, Inc. v. Proofpoint, Inc.*, No. 13-c-05808-HSG, 2015 WL
22 9023166, at *1 (N.D. Cal. Dec. 16, 2015). While under certain circumstances a plaintiff may use a
23 single chart to chart a number of representative products, plaintiff must still, at a minimum, “chart
24 a single product against all elements.” *Cap Co. v. McAfee, Inc.*, No. 14-c-05068-JD, 2015 WL
25 4734951, at 2* (N.D. Cal. Aug. 10, 2015). A plaintiff does not satisfy this requirement by
26 “mixing and matching between different accused products” in its claim charts, as “[i]nfringement
27 cannot be shown by a muddled hash of elements from different products.” *Id.*

28 GeoVector’s infringement contentions fail to meet the requirements of Local Rule 3-1(c)

1 as they fail to chart a single Samsung product against all elements of GeoVector's patents. For
2 example, in Claim 1 of the '938 Patent GeoVector identifies a long list of accused Samsung
3 products and product categories, including many smart phones, tablets, and phablets. GeoVector
4 explains that the first limitation for Claim 1 is located "in the video capability of the devices,
5 together with the software and apps that operate that capability." Infringement Contentions,
6 Exhibit A at 1 (Dkt. No 46-1). It then explains that each infringing product has a computer and
7 lists the computer processors for some, but not all, of the accused products. *Id.* For Claim 1's
8 "field region" and "periphery" limitations, GeoVector does not list any Samsung product, but
9 instead explains that those limitations are found "in the Layar and other applications, such as those
10 listed in Exhibit B, which come pre-loaded on the infringing devices." *Id.* at 9. For the limitation
11 that the field region be "an area fractional portion of the display field" GeoVector does not offer
12 the location of this limitation in any product, only stating "The infringing devices contain displays
13 and software that can show each field region as a fraction of the display field, which is enclosed
14 by a periphery." *Id.* In this way, to map the limitations for Claim 1, GeoVector mixes and
15 matches elements of Samsung products, third-party applications, and sometimes fails to identify
16 any particular product at all. This hodgepodge of different attributes from various different
17 accused products and third-party sources is insufficient to chart a single product against all
18 elements of Claim 1.

19 Further, while representative charts are sometimes permissible, "representative products
20 may only be charted 'when supported by adequate analysis showing that the accused products
21 share the same critical characteristics.' " *Cap co.*, 2015 WL 4734951, at 2* (quoting *Network*
22 *Protection Sciences, LLC v. Fortinet, Inc.*, No. 12-c-01106-WHA, 2013 WL 5402089, at *3 (N.D.
23 Cal. Sept. 26, 2013). "That analysis cannot just be based on the patentee's say-so." *Cap Co.*,
24 2015 WL 4734951, at 2*. "[I]n order to rely on a claim that one accused product represents
25 another for purposes of Rule 3-1(c), a patentee must do more than state as much. A patentee must
26 state how." *Silicon Labs., Inc. v. Cresta Tech. Corp.*, No. 14-c-03227-PSG, 2015 WL 846679, at
27 *2 (N.D. Cal. Feb. 25, 2015).

28 GeoVector has attempted to use a single chart for each patent to chart claims against

1 hundreds of products. Infringement Contentions, Exhibit A. These products include various kinds
2 of cell phones, tablets, and phablets. *Id.* GeoVector does not offer any analysis why these
3 products, many of which are not even the same general type of product, can be charted
4 representatively except to conclusorily state that “the infringing devices contain” the various claim
5 limitations. *See e.g., id.* at 9. (“The infringing devices contain a combination of a computer vision
6 system and a graphical user interface.”). And, in some circumstances GeoVector admits that
7 certain products are not representative or do not meet certain claim limitations. *See e.g., id.* at 11
8 (noting that the Samsung Galaxy Nexus does not meet the planar image field limitation for Claim
9 20 of the ’936 Patent). GeoVector has failed to provide sufficient analysis to justify the use of
10 representative charts.

11 GeoVector does not chart a single Samsung product against every element of GeoVector’s
12 asserted claims. It therefore fails to meet the requirements of Local Rule 3-1(c). Further, although
13 representative charts could be appropriate in this case, GeoVector must first chart at least one
14 product against every element of a claim and must offer analysis justifying why representative
15 charts are appropriate. Because GeoVector has failed to do either of these things, its
16 representative charts do not meet Rule 3-1(c)’s requirements.

17 GeoVector’s primary defense of its infringement contentions is that, based on
18 communications prior to the filing of this case, informal correspondence, and discussions among
19 counsel, Samsung already understands what its contentions are. Whether Samsung’s counsel
20 actually understands GeoVector’s infringement contentions, based on outside information not
21 contained in the contentions themselves, is not relevant. The Patent Local Rules require plaintiffs
22 to formulate their infringement contentions in particular ways to ensure they “crystallize their
23 theories of the case early in litigation and adhere to those theories once they have been disclosed.”
24 *Finjan v. Proofpoint*, 2015 WL 1517920 at *1. This is not only so that defendants can properly
25 respond to the claims against them, but “so that the Court can make a principled decision on
26 whether discovery will proceed.” *Bender v. Maxim Integrated Prods.*, 2010 WL 1135762 at *2.
27 Even if GeoVector is correct that Samsung understands its contentions, it must still formally
28 articulate these contentions in the proper format. GeoVector’s bare assertion that Samsung

1 understands its infringement contentions and so is “on notice” is not sufficient to meet Patent
2 Local Rule 3-1’s substantial requirements.

3 GeoVector’s direct infringement contentions do not meet the requirements of Patent Local
4 Rule 3-1(c).

5 **C. GeoVector’s Indirect Infringement Contentions are Insufficient**

6 Patent Local Rule 3-1(d) requires a plaintiff to indicate “[f]or each claim which is alleged
7 to have been indirectly infringed, an identification of any direct infringement and a description of
8 the acts of the alleged indirect infringer that contribute to or are inducing that direct infringement.”
9 Patent L.R. 3-1(d). GeoVector’s infringement contentions assert that Samsung indirectly infringes
10 by “making, using and selling products that infringe the Patents-in-Suit, causing those products to
11 be manufactured and distributed, and providing instruction manuals for those products.”
12 Infringement Contentions at 7. It also asserts that Samsung “deliberately incorporated
13 technologies claimed in the GeoVector patents into their products, and provided these
14 technologies to a number of customers and third-party application developers through the
15 Samsung App Store.” *Id.* at 8.

16 These vague allegations are insufficient to meet the requirements of Local Rule 3-1(d).
17 GeoVector must disclose how exactly Samsung indirectly infringed on GeoVector’s patents. *Cap*
18 *Co.*, 2015 WL 4734951, at *2-3 (“The fact that McAfee designs infringing software and that
19 others run it does not make McAfee an indirect infringer. For example, induced infringement
20 requires evidence of ‘intent to *encourage* infringement.’”); *France Telecom, S.A. v. Marvell*
21 *Semiconductor, Inc.*, No. 12-c-04967-WHA (NC), 2013 WL 1878912, at *5 (N.D. Cal. May 3,
22 2013) (Contentions that defendant induced infringement by “designing the accused products . . .
23 and advertising or representing to third parties that the infringing products are compatible or
24 adapted for use within the United States” were insufficient and only a “bare-boned recitation of
25 the essential elements of a claim for indirect infringement.”); *Creagri, Inc. v. Pinnaclife Inc.,*
26 *LLC*, No. 11-c-06635-LHK (PSG), 2012 WL 5389775, at *5 (N.D. Cal. Nov. 2, 2012) (indirect
27 infringement contentions that asserted defendant used advertisements to promote the use of their
28 product in an infringing manner, but “fail[ed] to identify what advertisements and instructions lead

1 to what infringing behavior” did not meet the standard of Local Rule 3-1(d)). GeoVector’s mere
2 assertion that Samsung produced infringing products and sold or promoted these products is
3 insufficient to meet Local Rule 3-1(d)’s requirements.

4 GeoVector argues that its indirect infringement contentions are sufficient because
5 “Samsung is on notice of the fact that its devices provide an augmented reality platform for app
6 developers and users of those apps” and “in this interconnected world with smartphones that help
7 people connect, it only stands to reason that apps on such devices enable indirect infringement.”
8 Oppo. at 17. It also states that it has offered to add cross references to Patent Rule 3-1(d) in its
9 infringement charts so this issue should already be resolved. *Id.* Neither of these arguments
10 impacts whether GeoVector’s infringement contentions meet Rule 3-1(d)’s requirements.

11 GeoVector cannot rely on what it believes Samsung understands to support the sufficiency
12 of its infringement contentions: the infringement contentions must meet the Local Rules’ objective
13 requirements. GeoVector’s assumption that “it only stands to reason that apps on [Samsung’s]
14 devices enable indirect infringement” is wholly speculative and conclusory and does not disclose
15 how Samsung indirectly infringes. Finally, GeoVector’s offer to supplement the infringement
16 contentions is helpful, but supplements exchanged through informal correspondence or pleadings
17 cannot remedy insufficient infringement contentions. GeoVector must supplement its actual
18 infringement contentions so that they comply with the Patent Local Rules.

19 GeoVector’s indirect infringement contentions do not comply with Patent Local Rule 3-
20 1(d).

21 **D. GeoVector’s Doctrine of Equivalents Contentions Are Improper**

22 Patent Local Rule 3-1(e) requires plaintiffs to identify “[w]hether each limitation of each
23 asserted claim is alleged to be literally present or present under the doctrine of equivalents in the
24 Accused Instrumentality.” Patent L.R. 3-1(e). Here GeoVector asserts that each claim limitation
25 is literally present or “[a]lternatively . . . present under the doctrine of equivalents.” Infringement
26 Contentions at 8. This bare assertion is insufficient to satisfy Local Rule 3-1(e). The doctrine of
27 equivalents does not exist “to give a patentee a second shot at proving infringement if it is not
28 literally present. [Plaintiff] cannot merely add boilerplate language asserting that the doctrine of

1 equivalents has been met as an alternative theory.” *Creagri*, 2012 WL 5389775, at *6 (internal
2 quotation marks omitted).

3 GeoVector seems to concede that its doctrine of equivalents contentions are minimal, but
4 asserts it will supplement these contentions, if necessary, if “Samsung provides GeoVector with
5 added information about each Samsung smart device with any GPS system embedded in it,
6 including all the product information relating to those devices.” Oppo. at 17. However,
7 GeoVector cannot assert a doctrine of equivalents contention based solely on information that may
8 be produced during discovery. *InteraXon Inc. v. NeuroTek, LLC*, No. 15-c-05290-KAW, 2016
9 WL 5118267, at *2 (N.D. Cal. Sept. 21, 2016) (“It is improper to assert the doctrine of equivalents
10 with generic ‘placeholder’ language on the hope that future discovery might support such an
11 assertion.”). GeoVector’s doctrine of equivalents contentions are improper.

12 GeoVector’s doctrine of equivalents claims are stricken without leave to amend. This
13 ruling does not impact GeoVector’s right to seek leave to amend, after a showing of good cause,
14 under Patent Local Rule 3-6.

15 **II. RELIEF**

16 **A. Motion to Strike**

17 In this district, motions to strike initial infringement contents are frequently treated as
18 motions to compel amendment of the infringement contentions. *FusionArc, Inc. v. Solidus*
19 *Networks, Inc.*, No. 06-c-06760 RMW (RS), 2007 WL 1052900, at *2 (N.D. Cal. Apr. 5, 2007)
20 (“Case precedent recognizes such ‘motions to strike’ as requests that plaintiffs be compelled to
21 *amend* their preliminary contentions to provide additional information.”); *Blue Spike v. Adobe*
22 *Sys.*, 14-c-01647-YGR (JSC), 2015 WL 335842, at *4 (N.D. Cal. Jan. 26, 2015) (“Where
23 appropriate, courts treat a motion to strike as a motion to compel amendment to include additional
24 information infringement contentions.”). Here, Samsung seeks to strike GeoVector’s infringement
25 contentions and allow GeoVector leave to amend only after successfully seeking leave from the
26 court and demonstrating good cause under local rule 3-6. Mot. at 16. However, “[s]triking a
27 patentee’s infringement contentions is a severe sanction that should be used sparingly and only for
28 good cause.” *Finjan v. Proofpoint*, 2015 WL 9023166, at *12. While some courts have required a

1 party asserting infringement to show good cause before being granted leave to amend initial
2 contentions, many have simply compelled the asserting party to file compliant infringement
3 contentions. *Compare Theranos, Inc. v. Fuisz Pharma LLC*, No. 11-c-05236-YGR, 2012 WL
4 6000798, at *6 (N.D. Cal. Nov. 30, 2012) (striking infringement contentions without leave where
5 asserting party made only vague allegations “on information and belief” and implicitly conceded
6 that it did not have any additional factual support for its claims), *with Bender v. Maxim Integrated*
7 *Prods.*, 2010 WL 1135762, at *1 (Denying motion to strike and granting motion to compel
8 infringement contentions that comply with Patent Local Rule 3-1). This is the first time Samsung
9 has moved to strike GeoVector’s infringement contentions, and although the contentions are
10 clearly deficient, it appears that GeoVector may be able to remedy many of the identified issues
11 with amendment. Striking GeoVector’s infringement contentions with prejudice is not warranted
12 at this time.

13 However, there are some exceptions to this general ruling. GeoVector will not be granted
14 leave to amend its doctrine of equivalents claims or to accuse products not explicitly listed in its
15 initial contentions. If GeoVector wishes to accuse products not explicitly listed in its initial
16 infringement contentions or to reassert its doctrine of equivalents claims, it may only do so after
17 seeking leave and showing good cause under Patent Local Rule 3-6.

18 GeoVector is ordered to serve Amended Infringement Contentions, subject to the
19 limitations outlined above that comply with the Patent Local Rules by January 30, 2017.

20 **B. Motion to Stay**

21 When a plaintiff’s infringement contentions are insufficient to meet the requirements of the
22 Patent Local Rules, courts in this district often stay discovery, including a defendant’s obligation
23 to serve invalidity contentions “[u]ntil plaintiff meets the burden of providing infringement
24 contentions compliant with Patent L.R. 3-1.” *Infineon Techs. v. Volterra Semiconductor*, No. 11-
25 c-06239-DMR, 2013 WL 322570, at *5 (N.D. Cal. Jan. 28, 2013) (citations omitted). Samsung’s
26 discovery obligations are temporarily stayed pending GeoVector serving amended and compliant
27 infringement contentions. Samsung must file its invalidity contentions by February 20, 2017. The
28 discovery dates and deadlines in this case are adjusted as outlined in the following chart.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

Event	Prior Deadline	New Deadline
Date to Serve Amended Infringement Contentions	N/A	January 30, 2017
Invalidity Contentions / Document Production Accompanying Invalidity Contentions	January 13, 2017	February 20, 2017
Exchange of Claim Construction Terms	January 27, 2017	March 6, 2017
Exchange Preliminary Constructions and Extrinsic Evidence	February 17, 2017	March 27, 2017
Joint Claim Construction and Prehearing Statement	March 3, 2017	April 10, 2017
Claim Construction Discovery Cut-Off	March 10, 2017	April 17, 2017
Plaintiff's Opening Claim Construction Brief	April 3, 2017	May 11, 2017
Defendants' Responsive Claim Construction Brief	April 17, 2017	May 25, 2017
Plaintiff's Reply Claim Construction Brief	April 24, 2017	June 1, 2017
Tutorial	May 5, 2017	June 16, 2017
Claim Construction Hearing	May 12, 2017	June 23, 2017

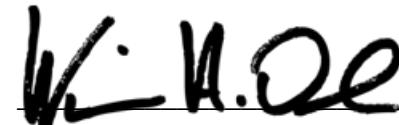
CONCLUSION

For the reasons outlined above, GeoVector's Infringement Contentions do not meet the requirements of the Patent Local Rules and are stricken. GeoVector is ordered to file compliant Amended Infringement Contentions by January 30, 2017. As outlined above, GeoVector is not permitted leave to amend its doctrine of equivalents contentions or to accuse new products not identified in its initial contentions. Should GeoVector wish to reassert its doctrine of equivalents claims or accuse additional products it may do so only in accordance with Patent Local Rule 3-6. Discovery, including Samsung's obligation to serve invalidity contentions, is stayed. Samsung

1 must serve its invalidity contentions by February 20, 2017.

2 **IT IS SO ORDERED.**

3 Dated: January 9, 2017

4 
5 WILLIAM H. ORRICK
6 United States District Judge